

HOUSE No. 907

By Mr. Kujawski of Webster, petition of Paul Kujawski relative to the transfer of assistant clerk magistrates. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE TRANSFER OF ASSISTANT CLERK MAGISTRATES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 9 of chapter 211B, as appearing in the
2 2000 Official Edition (2001 Supp.), is hereby amended by striking
3 paragraph (xxii) and inserting in its place the following words:—
4 (xxii) notwithstanding any general or special law to the con-
5 trary, when necessary to ensure the proper administration of jus-
6 tice, transfer employees of the trial court to serve where needed;
7 impose discipline on such officers and employees, including dis-
8 missal and suspension with or without pay; provided, however,
9 that the chief justice for administration and management may,
10 upon reasonable notice, temporarily transfer nonjudicial personnel
11 among the various departments, divisions and places for holding
12 court, and in no event shall any such transfer be more than a rea-
13 sonable distance from the place where such personnel is employed
14 unless the employee so transferred shall consent thereto; provided,
15 further, that such transfer of the employee shall not be for more
16 than ninety days, but such transfer may be extended for three con-
17 secutive ninety-day periods, provided that notice is given to the
18 house and senate committees on ways and means upon each
19 extension, including the employee's position, duties, and reason
20 for the transfer, but such transfer shall not exceed three hundred
21 and sixty consecutive days; provided, further, that no transfer of
22 an assistant clerk magistrate be made without the prior approval

23 of such assistant clerk magistrate's appointing authority. The first
24 justice of the court to where the employee transferred shall pro-
25 vide the first justice of the court to where the employee is perma-
26 nently assigned with appropriate personnel records and records of
27 activities, including records necessary for the payment of compen-
28 sation; and provided, however, that this provision shall not apply
29 to a clerk or clerk-magistrate, whether elected or appointed by the
30 governor, register of probate or recorder;

1 SECTION 2. Section 10 of chapter of 211B, as appearing in the
2 2000 Official Edition, is hereby amended by striking paragraph (i)
3 and inserting in its place the following words:—

4 (i) The power to appoint, discipline, evaluate, transfer and
5 define the duties of all nonjudicial personnel within his depart-
6 ment including special masters, court reporters, law clerks, tempo-
7 rary clerks and other support personnel consistent with the
8 provisions of section eight and ten A; provided, however, that a
9 chief justice shall not have the power to appoint non judicial per-
10 sonnel serving in the office of the clerk, recorder or register, and
11 shall not have the authority to transfer an assistant clerk magis-
12 trate from one division to another division with his department
13 without the prior approval of such assistant clerk magistrate's
14 appointing authority, but shall have the authority to discipline said
15 clerks, recorders and registers and all other personnel in the
16 offices of the said clerks, recorders or registers, upon the raising
17 of any dispute between a first justice and a clerk, recorder or reg-
18 ister. Any person aggrieved by any decision of a chief justice
19 under this paragraph may appeal such decision to the chief justice
20 for administration and management; provided, further, that no
21 person holding a commission as a clerk of court, whether elected
22 or appointed, a register of probate or a recorder shall be assigned
23 under the provisions of this paragraph outside the department,
24 division, or court to which he is elected or appointed without his
25 consent. Any clerk aggrieved by any transfer or assignment of
26 himself or personnel of his office under this paragraph shall
27 appeal to the chief justice for administration and management who
28 shall forthwith hear and determine the matter;